

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BORTOLO GIOVANNI VIVENZI,
Plaintiff,
v.
U.S.A.,
Defendant.

E-FILED - 9/30/09

CASE NOS.: C-06-04688-RMW
C-09-00104-RMW
(Criminal No.: CR-85-02160-RMW)

**ORDER DENYING MOTION TO
VACATE, SET ASIDE A CASE AND
MOTION FOR WRIT OF ERROR
CORAM NOBIS**

(Docket Nos.: 1, 1, 823, 824, 826, 827)


Bortolo Giovanni Vivenzi brings what he describes as a Petition for Writ of Error Coram Nobis (action # C-06-04688) and a Motion to Vacate, Set Aside a Case (action # C-09-00104). It appears that C-06-04688 concerns petitioner's federal conviction in action # 85-CR-02160 which involved a conviction for drug trafficking offenses. Petitioner, in essence, believes his plea agreement should have included a request for a judicial recommendation against deportation.

Alternatively, he seeks a reduction in his sentence in the hope that would enable him to avoid deportation. His papers do not set forth a basis for granting the relief he requests. Although at the time he was convicted, a judge could recommend against deportation, he sets forth no basis that he could have obtained such a recommendation or that it would have done any good. He also sets forth nothing that shows entitlement to an alternate sentence.

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3 In his Motion to Vacate, Set Aside Vivenzi references 28 U.S.C. 2255 and refers to being in
4 federal custody. He, however, attaches papers from a state court criminal proceeding. Again, what
5 petitioner appears to seek is an avenue for avoiding deportation. The court finds no basis for relief.

6 Both the petition and motion are denied. Vivenzi's request for a fee waiver is denied as
7 moot.
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9 DATED: September 30, 2009

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12 RONALD M. WHYTE
13 U.S. DISTRICT JUDGE
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1 Copy of Order Mailed to:

2 Bortolo Giovanni Vivenzi de la Cruz
3 A# 36216291
4 1705 East Hanna Road
5 Eloy, AZ 85131
6 D-214
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